

5/29/87

SUBJECT: Curbing limited-purpose and strip annexation

COMMITTEE: County Affairs: committee substitute recommended

VOTE: 8 ayes--Stiles, Eckels, Campbell, Harrison, Jones,
Melton, Patterson, Willy
1 nay--Edge
4 absent--Whaley, Carriker, Finnell, Robinson

SENATE VOTE: On third reading, May 25--voice vote

WITNESSES: None

BACKGROUND: The Municipal Annexation Act establishes a city's extraterritorial jurisdiction (ETJ) within which a city can impose subdivision controls to plan for its future growth. A city's ETJ consists of all the contiguous unincorporated area within a certain distance from the city limits. The distance ranges between one-half and five miles, depending on a city's population.

A city may annex territory within its ETJ, if after public hearing and notification it is found that annexation would be in the public interest. A city may not annex territory representing more than 10 percent of its incorporated area in any given year. All annexed territory must be at least 500 feet in width at its narrowest point, unless the city's boundaries are contiguous with the property on at least two sides or the land owners or voters request annexation.

A city must provide police and fire services to a newly annexed area within 60 days of its annexation. A city must begin acquiring or constructing the needed capital improvements to provide municipal services, such as water and sewer utilities, to an area within two-and-one-half years of its annexation.

A home-rule city may provide in its charter for limited-purpose annexation of areas within its ETJ. This type of annexation allows the city to extend its zoning ordinances as well as subdivision controls over an area that it intends to fully annex. There is no timetable by which a city must fully annex a limited-purpose annexed area. Residents of

limited-purpose annexed areas do not pay city taxes and do not receive city services. They can vote in city council elections, but not in bond elections.

The cities of Austin and San Marcos have amended their charters to enable them to annex areas within their ETJs for limited purposes. The cities of Houston and Corpus Christi have in the past annexed areas along navigable streams for limited purposes of ports and ship channels, based on specific statutory authority.

In 1985 the Legislature imposed a two-year moratorium to prohibit a city from amending its charter to authorize annexations for limited purposes until June 1, 1987.

DIGEST:

CSSB 962 would limit a city's authority to annex in narrow "strips" and for "limited purposes." The bill would also provide a deadline by which a city must have substantially completed building capital improvements to provide municipal services to newly annexed areas.

Strip annexation

A city could not annex a strip of territory that is less than 1,000 feet in width at its narrowest point, unless the city's boundaries were contiguous with the property on at least two sides, the owners or voters requested annexation, or the property abutted or was contiguous to another jurisdictional boundary.

A city could not annex, for full or limited purposes, a strip of territory that followed a road or stream and that was less than 1,000 feet in width at its narrowest point and that was more than three miles from the city's current boundaries. A city would have to fully annex by Sept. 1, 1988 any such strip of territory that it had previously annexed for limited purposes. If a city failed to do so, the territory would automatically be deannexed and could not be reannexed for five years.

The territory within a city's ETJ as of April 30, 1987 would remain subject to the provisions regulating the extension or creation of jurisdiction by another municipality.

Limited purpose annexation

A city could not use limited-purpose annexation on territory representing more than 10 percent of its incorporated area in any given year.

After Sept. 1, 1987, a home rule city with more than 225,000 inhabitants could annex an area for the limited purposes of applying its planning, zoning, health and safety ordinances in the area. An area would be subject to limited-purpose annexation only if it was within a city's ETJ and was contiguous to the city limit at a point where the city's corporate area was wider than 1,000 feet. A limited purpose annexed area would be considered to be within the city's ETJ for all purposes, and it could not be incorporated without the annexing city's consent.

A city would have to prepare and make available to the public a report regarding a proposed limited-purpose annexation. The report would have to contain a planning study and a regulatory plan for the area of the proposed annexation.

The planning study would have to project over 10 years the development of the area proposed for limited-purpose annexation; give the reasons for annexing the area for limited purposes and describe the benefits of such annexation; analyze the economic and environmental impacts on the residents and land owners in the area; and identify the proposed zoning of the area.

The regulatory plan would identify the land use and other regulations that would be imposed on the area. It would also give the date, which could not be more than three years after the limited purpose annexation, on which the city would fully annex the area.

If a city failed to fully annex a limited purpose annexed area within three years, any affected person could bring suit to compel the city to either fully annex or deannex the area. A city could not reannex a deannexed area for another five years. A city would not have to fully annex a limited purpose annexed area within three years if the majority of the affected land owners agreed.

A city would have to meet planning objectives each year of the three-year period, or the limited purpose

annexation would be voided. A city would have to develop a land use and intensity plan by the end of the first year. A city would have to include the area in its long-range financial forecast and its capital improvements identification program by the end of the second year. A city would have to include projects intended to serve the area in its capital improvements program and identify funding sources for the capital improvements by the end of the third year.

A city would have to hold two public hearings before it could annex an area for limited purposes. A city would hold hearings 40 to 20 days before it began limited-purpose annexation proceedings.

If a city annexed an area for limited purposes, it would have to adopt a regulatory plan for the area. A city would adopt the regulatory plan proposed in its report, unless it gave the reasons for adopting another service plan. Similarly, a city could change an existing regulatory plan if it gave the reasons for making a change.

A city would have to complete the limited-purpose annexation of an area within 90 days of beginning the annexation proceedings. A city would have to fully annex an area if a land owner requested full purpose annexation 20 days before the city annexed an area for limited purposes.

Voters in areas annexed for limited purposes could vote in elections for city council members and to amend the city charter. They could not vote in bond elections. Residents in areas annexed for limited purposes could not be elected to a municipal office. They would not be subject to city taxes; however, the city could impose reasonable charges on residents or land owners for services related to the limited purposes for which the area was annexed.

A city's annexation of an area for limited purposes would not extend the city's ETJ.

A city could limited-purpose annex individual property or an area within 150 days of receiving a request from the landowner or the majority of affected landowners.

A city would have to fully annex by Dec. 31, 1988 any area annexed for limited purposes before Sept. 1, 1987. If a city failed to do so, any land owner could request

to be deannexed; a platted subdivision could request to be deannexed if the majority of the landowners approved. A land owner would have to give a city 90 days notice of a request for deannexation, and a city would have 30 days to comply. Any deannexed land could not be reannexed for five years.

The bill would not limit the statutory authority granted to cities to annex areas along navigable streams for the limited purposes of ports and ship channels.

Extension of city services

After annexing an area, a city would have to begin construction of capital improvements adequate to serve the development proposed for a newly annexed area.

A city would have to substantially complete the building of capital improvements to provide city services within four and one-half years of annexing an area. A city would have to build capital improvements in a newly annexed area in continuous process and would have to complete them as soon as reasonably possible. A city would be excused for delays by circumstances beyond its control. A city would not have to substantially complete the building of capital improvements in a newly annexed area if the area was annexed at the request of the land owners and the landowners agreed to a longer time period.

A city's service plan for a newly annexed area would have to be comparable to the service plan for other areas of the city with land uses and population densities similar to those projected by the developer for the newly annexed area.

SUPPORTERS
SAY:

This bill would curb questionable annexation practices by some cities. At the same time it would protect cities by keeping the existing requirement that a city must consent to the incorporation of another city within its ETJ. Furthermore, the bill would only allow the deannexation of limited-purpose annexed land if the city failed to meet the statutory timetable for providing services. An area could not be deannexed without first going to court; there would not be automatic deannexation of an area, nor could a land owner or subdivision undermine the purpose of limited-purpose annexation by simply opting out of limited-purpose annexation of their area.

The bill would limit the practice of strip annexation, which cities use to extend their ETJ and accompanying subdivision controls far beyond their boundaries. This practice unfairly subjects land owners and residents within a city's expanded ETJ to city regulations without giving them a corresponding right to vote for the city council. Furthermore, these areas are so far from the existing city boundaries that there is no prospect that the city could annex and extend city services to them in the near future.

The bill would limit a city's ability to annex an area for limited purposes and thereby indefinitely tie up land and withhold city services. Limited purpose annexation as it is used by some cities is unfair to residents and land owners in the affected area because there is no time limit by which the city must fully annex the area and provide it with city services. The bill would change this by requiring a city to fully annex an area annexed for limited purposes after Sept. 1, 1987 within three years of its annexation for limited purposes. If a city failed to do so, an affected person could go to court to compel the city to either fully annex or deannex the area. A city could not reannex the area for another five years. Similarly, a city would have to fully annex an area annexed for limited purposes before Sept. 1, 1987 by Dec. 31, 1988, or any land owner could request to be deannexed.

The bill would expedite the timetable by which a city must extend municipal services to a newly annexed area, by changing the focus from the beginning of construction of water and sewer facilities to the completing of that construction. While the law now requires a city to begin construction of water and sewer facilities within two and one-half years of its annexation, the bill would require a city to substantially complete building these facilities within four and one-half years of the area's annexation.

OPPONENTS
SAY:

Cities should be given more land use controls. Since there are no state, regional, or county land use controls, cities are the only ones that can limit and plan development. Limiting strip annexation would eliminate a valuable tool for land use planning. Strip annexation along a river, for example, is essential to protecting a city's water supply.

Three years is too short a timetable by which to fully annex a limited purpose annexed area. A city should have at least five years rather than three years. Similarly, areas that are currently annexed for limited purposes should be annexed within three years of the bill's enactment, not by the end of 1988.

A city should not have to fully annex an area if a landowner requests full purpose annexation 20 days before the city annexes an area for limited purposes. In practice this would mean that a city could never annex an area for limited purposes, and it would prevent a city from providing for orderly and coordinated growth in areas that will eventually be part of the city.

The level of municipal services to a newly annexed area should not be based on the land uses and population densities projected by the developer, but should be set by city ordinance.

OTHER
OPPONENTS
SAY:

Limited purpose annexation should be prohibited. Cities have abused limited purpose annexation by tying up land development while withholding services indefinitely. Cities should be restricted to using their authority over ETJs and not use limited purpose annexation as a growth management tool.

NOTES:

The committee substitute made several changes to the Senate version of the bill, including the addition of the provisions excluding areas annexed for limited purposes prior to Sept. 1, 1987 from the provisions of the bill but requiring that those limited-purpose annexed areas be fully annexed by Dec. 31, 1988 or be subject to disannexation upon request of a land owner or subdivision.